

MINUTES

THE REGULAR MEETING OF THE
BOARD OF ALDERMEN
CITY OF BRANSON, MISSOURI
March 10, 2020

INTRODUCTORY

The Board of Aldermen of the City of Branson, Missouri, met in regular session in the Council Chambers of the City Hall on March 10, 2020, at 6:00 p.m. Mayor Akers called the meeting to order with the "Pledge of Allegiance" and Ted Martin gave the invocation.

ROLL CALL

Deputy City Clerk Hillary Briand called roll: Mayor Edd Akers presiding, Kevin McConnell, Brian Clonts, Bob Simmons, Bill Skains, Larry Milton and Rick Castillon.

AWARDS / RECOGNITIONS

Employee of the Month

Alderman Simmons presented Ashley Hurst of the Police Department as the March Employee of the Month in recognition for displaying City of Branson Values.

Mayor Akers read a statement regarding speaker decorum and stated in order to give everyone a chance to speak tonight I would like to ask that if you're speaking on an item, that you keep your comments succinct, to the topic and as short as possible. You will be allowed to only speak once on an item and please do not repeat what has already been said by another speaker. Once public discussion has ended on an item, the Board starts their discussion, no additional comments will be taken from the audience. Please remember to speak into the mic, state your name and address for the record. Please seek to follow our five minute guideline and as an Aldermen gesture, we let the Aldermen ask if there's a question of someone who's spoken, that they want to clarify, we can call them back down.

PUBLIC COMMENT

Rhonda Merriman, 1017 Creekwood Road, Merriam Woods, Missouri, inquired about the status of the 76 Highway Revitalization Project, particularly regarding undergrounding utilities, which had been placed on the City's agenda several different times in a short period of time. She understands the reason it was not passed at the time was because it was lacking signatures and the signatures are now in place. She asked when this topic would be placed back on the agenda. Discussion. Alderman McConnell stated just to be clear as a matter of record, for five fails in six months, bringing it back multiple times, just with the last meeting we had contractors say they're not going to stand by their bids. I just would like this on the public record please.

Betsy McConnell, 1880 Pointe Royale Drive, Branson, Missouri, mentioned sharing her concerns with the Board at the January 28th meeting regarding the lack of oversight on the use of the public safety tax. She recalled Alderman Skains said the oversight committee reviews spending on an ongoing basis,

the committee meets quarterly and the meetings are open to the public. She explained his comments can be heard on the recording of the January 28th meeting. Ms. McConnell said after seeing Alderman Skains' comments on social media regarding the tax in which he referred questions to Dick Gass who is chair of the unofficial committee, she reached out to Mr. Gass. She reported Mr. Gass informed her the committee does not look at spending since that's what the Budget and Finance Committee is for, and they do not meet on a regular basis or have a formal agenda for the meetings. Ms. McConnell added, City Administrator Stan Dobbins has even said the committee meets monthly, but no one in the community seems to know where or when these meetings take place. She asked how it could be called good oversight if the City Administrator, Committee Chair and Alderman Skains all have different stories as to when the committee meets, what is discussed and who is invited. She reported Alderman Skains said at a public forum today the safety sales tax goes through a series of processes and to three or four committees before being spent and she inquired where this comes from. She explained neither of the two committees are reviewing how the tax is spent and feels everyone needs to start being truthful. She encouraged the Board to set up a true committee which would allow for transparency with a posted agenda, meeting minutes and all financials easily accessible to the public. Voters did not approve this tax to ease the general fund, but to increase Fire and Police personnel, offer better wages, build new stations and ensure the Police and Fire Departments have appropriate equipment needed to effectively do their jobs. Ms. McConnell said after she spoke at the last meeting, the City decided to release over 300 pages of expenses for Police and Fire which wasn't in any logical order and didn't tell the public anything. She mentioned adding up all the expenses on this report and the total spent was a mere \$1.6 million, but it was released to the public that the taxes brought in \$13 million and she asked where the remaining \$11.4 million was. She pointed out, of the \$1.6 million, the majority of expenses were being paid for prior to the safety tax, so they don't show where the safety tax was spent. She recalled at the August 8, 2017 meeting City Administrator Stan Dobbins had said no supplanting, reduction or reallocation of budgetary funds as set forth from the budget of both the Police and Fire would take place. She explained the definition of supplant is to replace and at no time was this new safety sales tax to replace current budget line items, but was to represent new money for new additional safety expenditures. She listed some examples of items paid by other departments that have been transferred to Police and Fire such as Suddenlink \$14,000, Verizon \$36,000, ESO Solutions \$9,800, Radiophone \$5,300 and Corporate Business Systems \$2,600. She explained these few items equate to over \$65,000 taken from other Department's budgets and moved to Police and Fire. She knows City leadership will say the funds transferred with the expenses, but that evidence doesn't exist. She feels if the Board refuses to discuss these issues, it shouldn't come back to the citizens and ask for another tax because this one isn't enough as Alderman Skains has said will happen. On behalf of the residents and tax payers, she asked the Board to do its job as elected officials and have oversight on this much needed tax. In response to Alderman Milton's inquiries about an estimated total for how much she thinks has been supplanted, she explained the problem is with over 300 pages not in any logical order, it's difficult to tell. She clarified these were items she was able to verify had been moved from other departments to Police and Fire. She added, it could be \$10,000 or several hundred thousand dollars more, but the question is where the other \$10 million is. Ms. McConnell mentioned asking this at the last meeting and said there was \$1.2 million left in the safety sales tax fund at the end of the year, but \$10 million is unaccounted for. She estimated spending \$1 million for the fire truck would reduce the figure from \$10.4 million to \$9.4 million and she recalled Police and Fire received \$7.6 million from the general fund which gets transferred in and is clearly on the budget for 2019. She reported \$7.6 million was transferred in, \$0 was transferred from other funds and \$8.5 million was spent on personnel compared to the \$7.6 million budget which is a \$900,000 increase for two new firefighters and seven police officers. She stated these are the numbers that are in the budget book, so if they're incorrect the budget book is incorrect. Taking the \$900,000 increase for personnel into consideration, she estimated the unaccounted amount to be \$8.7 million and explained all she's asking for is to show how the money has been spent. She asked where the money is if it's not in the bank account and feels it's a logical question citizens have asked for with this tax. She's a citizen who's helping pay this tax and helped pass this tax and feels everyone passed it so firefighters and police officers could get what they needed. She clarified she's not saying they're not getting some of these things, but wants to know where the other \$8 million is. She appreciates and accepts Mayor Akers' offer to meet with her, but having served on the Finance Committee and the Board of Aldermen she understands the transfers

in. She added, that's why it was important to look for other transfers in, which she didn't see. She urged the Board to understand it's not about satisfying her, but the 12,000 residents who voted for this tax. Ms. McConnell explained she still gets questions from people asking her about what's going on with the tax and she encouraged the City to be more transparent. Discussion.

CONSENT AGENDA

Mayor Akers stated it's my responsibility as Mayor under state law to take care of the ordinances of our City and the state laws relating to our City that they are complied with. With one of our ordinances, Branson Municipal Code 2-64, I am tasked with the responsibility of being the Presiding Officer of the Board and am required to preserve strict order and decorum at all meetings of the Board. The citizens of Branson have elected us to make decisions on policy matters and to make those decisions by voting. We are obligated to vote unless a conflict of interest prevents us from doing so. The common law of the State of Missouri supports this. Although I cannot force any member of the Board to cast a vote, and no member can be required to cast a vote, I do have the ability to control the order and decorum of these meetings. As a result, I'm announcing under my authority to preserve order and decorum at these meetings, that any abstention by any member of the Board during this meeting can be recast as a no vote.

Mayor Akers asked if there were any citizens who had any items they wished to have removed from the Consent Agenda for further discussion. Hearing none, Mayor Akers asked if any member of the Board had any items they wished to have removed from the Consent Agenda. Hearing none, Mayor Akers asked Deputy City Clerk Hillary Briand to read the items on the Consent Agenda. Deputy City Clerk Hillary Briand read the following Consent Agenda items by title.

Approval of Board of Aldermen Minutes:

- a) February 20, 2020 Study Session
- b) February 25, 2020 Regular Meeting

Acknowledge Receipt of Minutes:

- a) Planning Commission Study Session of November 5, 2019
- b) Planning Commission Regular Meeting of November 5, 2019
- c) Budget and Finance Committee meeting of January 31, 2020

BILL NO. 5788

Ord. No. 2020-0034

Amending Chapters 1, 18 and 58 of the Branson Municipal Code pertaining to the Realignment of Code Enforcement within the City and Dangerous Buildings.

Final Reading of Bill No. 5788, an ordinance amending Chapters 1, 18 and 58 of the Branson Municipal Code pertaining to the Realignment of Code Enforcement within the City and Dangerous Buildings was read by title by Deputy City Clerk Hillary Briand. Voting aye: McConnell, Clonts, Simmons, Skains, Milton and Castillon. Nays: none. Motion carried. Ordinance No. 2020-0034 was duly enacted.

BILL NO. 5789

Ord. No. 2020-0035

Amending the adopted 2019 Budget for the City of Branson, to adjust monies for Various Funds.

Final Reading of Bill No. 5789, an ordinance amending the adopted 2019 Budget for the City of Branson, to adjust monies for Various Funds was read by title by Deputy City Clerk Hillary Briand. Voting aye: McConnell, Clonts, Simmons, Skains, Milton and Castillon. Nays: none. Motion carried. Ordinance No. 2020-0035 was duly enacted.

BILL NO. 5790

Ord. No. 2020-0036

Amending the adopted 2019 Budget for the City of Branson, to adjust monies for the Mandatory Redemption and Waterfall in the Debt Service Funds.

Final Reading of Bill No. 5790, an ordinance amending the adopted 2019 Budget for the City of Branson, to adjust monies for the Mandatory Redemption and Waterfall in the Debt Service Funds was read by title by Deputy City Clerk Hillary Briand. Voting aye: McConnell, Clonts, Simmons, Skains, Milton and Castillon. Nays: none. Motion carried. Ordinance No. 2020-0036 was duly enacted.

BILL NO. 5791

Ord. No. 2020-0037

Approving payment of Incentive Fees to SMG, Branson Convention Center's Management, in accordance with their contract for FY2018.

Final Reading of Bill No. 5791, an ordinance approving payment of Incentive Fees to SMG, Branson Convention Center's Management, in accordance with their contract for FY2018 was read by title by Deputy City Clerk Hillary Briand. Voting aye: McConnell, Clonts, Simmons, Skains, Milton and Castillon. Nays: none. Motion carried. Ordinance No. 2020-0037 was duly enacted.

Mayor Akers opened the floor for a motion to approve all items on the Consent Agenda. Alderman Milton moved to approve all items on the Consent Agenda, seconded by Alderman Clonts. Voting aye: McConnell, Clonts, Simmons, Skains, Milton and Castillon. Nays: none. Motion carried.

REGULAR AGENDA

Report by Rachel Wood about the Branson Chamber of Commerce Year-End 2019 Marketing Report.

A report about the Branson Chamber of Commerce Year-End 2019 Marketing Report was presented by Rachel Wood of the Branson Chamber of Commerce. Mayor Akers asked for anyone in the audience wishing to speak regarding this matter.

Bob Nichols, 234 Sunset Cove, Branson, Missouri, introduced himself as the owner of Touch of Class and mentioned always hearing Aldermen and people in the community asking what can be done to fix the show business. He inquired if Ms. Wood agreed the answer pertained to show inventory and that Branson has to have a marquee name to draw people in to see all of its shows. He asked if this was a statement the Chamber of Commerce supports.

Mayor Akers asked for comments from the Board. Discussion.

BILL NO. 5778

SUBSTITUTED

Amending Chapter 58 of the Branson Municipal Code pertaining to persons under 21 years of age prohibited from the purchase of tobacco products and prohibiting the sale of tobacco products to persons under 21 years of age.

Final Reading of Bill No. 5778, an ordinance amending Chapter 58 of the Branson Municipal Code pertaining to persons under 21 years of age prohibited from the purchase of tobacco products and prohibiting the sale of tobacco products to persons under 21 years of age was read by title by Deputy City Clerk Hillary Briand. She stated this Bill was postponed on its Final Reading during the February 25, 2020 Regular Meeting. It has had a motion and second and is ready for a vote. Due to the substantial changes, a Substitute Bill has been drafted and will be introduced as the next item. A staff report was presented by City Attorney Chris Lebeck. Mayor Akers asked for a motion that Bill Number 5793 be considered as a Substitute Bill and replacement for Bill Number 5778 and that Bill Number 5778 be removed from the agenda. Alderman Simmons so moved, seconded by Alderman Clonts. Mayor Akers asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Akers asked for comments from the Board. Discussion. Voting aye: McConnell, Clonts, Simmons, Skains, Milton and Castillon. Nays: none. Motion carried. Deputy City Clerk Hillary Briand stated the record will reflect that Bill Number 5778 has been replaced with Substitute Bill Number 5793.

**SUBSTITUTE BILL NO. 5793
POSTPONED**

**Amending Chapter 58 of the Branson Municipal Code pertaining to
Prohibiting the sale of tobacco products to persons under 21 years of age.**

First Reading of Substitute Bill No. 5793, an ordinance amending Chapter 58 of the Branson Municipal Code pertaining to Prohibiting the sale of tobacco products to persons under 21 years of age was read by title by Deputy City Clerk Hillary Briand and a staff report was presented by City Attorney Chris Lebeck. Mayor Akers asked for a motion approving Bill No. 5793. Alderman Skains so moved, seconded by Alderman Clonts. Mayor Akers asked for anyone in the audience wishing to speak regarding this matter.

Alaina Williams, 1756 Bee Creek Road, Branson, Missouri, introduced herself as the Program Director of the Taney County ADAPT Coalition.

Paige McCarty, 491 Jasmine Drive, Branson, Missouri, introduced herself as a member of Branson High School's ADAPT Club and said they truly appreciate the City's kindness in considering Tobacco 21. She mentioned addressing the Board in February 2019 and appreciated the Board's consideration.

Ismail Coello, 4012 Mulberry Road, Merriam Woods, Missouri, thanked the Board for considering the Tobacco 21 ordinance and for the opportunity to speak about it today. As a Branson high school student, she sees how this affects kids because some students use tobacco products at school. She believes that holding retail stores accountable for selling to minors will help this go down.

Ginny Chadwick, 305 Alexander Avenue, Columbia, Missouri, thanked the Board for its time and said she understands government moves slow. She mentioned serving on the Columbia, Missouri City Council, and in 2013, a school board member came to her requesting consideration for Tobacco 21. She reported Columbia was the first place in the state to adopt a Tobacco 21 policy, 31st in the nation, and the 5th state to have a local policy. She expressed the desire to protect kids from an industry known to deceive and target them with a deadly product. Since Missouri's first policy in December 2014, there have been policies passed in over 25 cities and counties in the State of Missouri, covering over 45% of the state's population. Ms. Chadwick reported there are policies in 540 cities and counties across the country and 21 states with South Dakota just passing it statewide last week. On December 20th, President Trump signed a federal bill which set the sale of tobacco products age to 21. She explained local communities are the best places to enact laws to make sure young people of the community are protected. Currently, the State of Missouri continues to enforce age 18, even though federal law is age 21 because state staff has been directed to continue enforcing age 18 until state law has increased. She explained contracts will eventually be renewed by the FDA requiring the use of federal dollars for age 21, but until a state law is passed, they'll likely still be using state dollars at 21. Ms. Chadwick said the state puts \$0 into compliance checks, so it falls on local communities to make sure retailers are not selling to kids. She explained Branson is a tobacco swamp, which means there are four tobacco retailers per thousand per capita and has one of the highest rates of tobacco retailers she's ever seen. She commented that means youth have easy access to tobacco

products and when looking at FDA compliance check numbers in Branson, one out of every six retailers makes an illegal sale to our youth. In the State of Missouri, retailers sell to kids more than anywhere else in the country with more no sale orders by the FDA than anywhere else. She explained this means retailers have to sell seven times within a 48 month period to receive a no sale order and the State of Missouri gets first place for having the most retailers doing it. She asked what the City needs to do to protect youth and mentioned e-cigarette use is at an epidemic rate and the tobacco use rate is 34.5% among high school seniors which is higher than what was seen in the 1950s and 1960s. Ms. Chadwick feels it's phenomenal and a disappointment people have let an industry come in and addict kids. She feels City Attorney Chris Lebeck has been very generous working with this ordinance, revising the language and taking feedback. She asked the Board to consider feedback one more time and mentioned making amendments to the draft which she provided a copy to the Board. (See attached handout). She explained her draft removed the City's new code, Section 58-342, and reminded the Board she had sent the City a letter asking it not to include this section. She explained penalizing kids can have negative public health consequences since kids are less likely to admit they're using the product, seek cessation services, or say what they're doing is illegal. She added, research shows kids are less likely to seek cessation services and this is more likely to grow with minority kids. The Center for Disease Control (CDC) recently came out with a report that says purchase, use and possession laws have negative consequences on kids. Ms. Chadwick explained this doesn't mean people don't want to hold kids accountable, but means they want to educate and help them understand what's wrong with these products. Since this is an addiction, they want to treat them and provide cessation services. She added, unfortunately based on the way the City's statute is written, the penalty section refers back to Section 113 of the general penalties which is a misdemeanor not to exceed \$500 or 90 days in jail, or both unless the penalty is specifically provided by the ordinance or required by state law. She doesn't think it was anybody's intention to make these kids serve up to 90 days in jail or pay up to \$500 in fines since 34.5% of our senior kids are currently addicted. She commented, there's no intent of criminalizing with a misdemeanor a third of the senior class and feels people have to be thoughtful about the way the ordinance is structured. She explained this is why she redefined the proof of age to be a government issued ID, not some other document or written evidence. She requested the City's current code, Section 58-342, be stricken or amended to say cessation services will be provided for those found using or possessing a product under the age of 18. She asked the City to mirror federal law on its proof of age requirement, because as it's written now it's very subjective, but federal law is very clear. The federal law passed on December 20th says no such verification is required for a person over the age of 30, making it very clear and is not just a perception of does a person look over the age of 30. Her next recommendation was to clarify the three strikes and you're out penalty, because the City's ordinance doesn't specify how long the three strikes are in effect. She reported the model policy says three strikes within a 36 month period and also considers any violations of state or federal law. Ms. Chadwick feels when the FDA comes in and does compliance checks, Missouri does a bang up job. She explained there's about 6,000 tobacco retailers in the State of Missouri, and Missouri is one of 13 states that doesn't have a retail license. She added, it's not known where all the retailers are, but of the ones identified and checked if they're found in non-compliance they're rechecked. Ms. Chadwick commented if the City created a retail license in its ordinance, she complimented it for doing so and asked for state, federal and local violations being counted in the three strikes penalty within a set period of time. She reported the best practice is 36 months and she encouraged the Board to have a tiered penalty structure. She gave an example that if a license holder is found in violation by any agent of the licensee, there would be a \$250 fine within the first 36 months and \$500 fine for any subsequent violation or a suspension of the license for the 2nd and 3rd violation of 7 days. She added, that way the City's not permanently revoking a license after three strikes, but there's some incentive to comply. If a business is checked a second time after it's found the first time, then it gets a slap on the hand of seven days of not being able to sell tobacco products. She never advocates for taking a person's business license, just their tobacco license. She shared concerns about the state trying to preempt local communities from working in this space as there's a proposed bill that would take away all local control of tobacco products. Ms. Chadwick stated this is something she wouldn't want to happen because local communities can react quicker to problems that are happening. She reported a Tobacco 21 Bill has been filed which had a Senate committee hearing last Wednesday as well as a substitute bill that would be very similar to this, creating penalties on the retailer and a registration that would come with a \$50 cost. She mentioned City Attorney Chris Lebeck had originally put in the ordinance a license for \$250, but based on the Hancock Amendment local jurisdictions can't charge a fee for a license without sending it to the ballot for a vote. This case was proven in 1998 when St. Louis County passed a tobacco retail license by its board

and the tobacco industry challenged it and won. It was sent to the ballot and St. Louis County is the only place in the state that charges a substantive fee of \$125 for a retail license. There are 21 states that have done something and the tobacco industry wants it to happen fast because they want it to happen in the least painful way. Currently in the way the state language is drafted, retailers have no penalties, but the low wage clerk and kid receive the only penalties seen in the state's statutes. She shared concerns of not wanting it to go fast so it doesn't go broken and explained they want to make sure if the state passes something, they pass it directly on the retailer for a penalty, holding them accountable. She reported most communities in the state have pulled out their purchase, use and possession laws, and while the City of Branson was putting one in, Springfield and Joplin were removing theirs. She added, when Joplin and Springfield both passed Tobacco 21 policies, they actually removed the purchase, use and possession penalties, as was the case with Columbia and St. Louis. As good policy moves forward, it's not doing purchase, use and possession. She reiterated federal law does not penalize kids and recommended language that it would be on the license holder, not the low wage clerk. She mentioned hearing from the tobacco industry when they testify with her that they want to hold clerks accountable and if a clerk gets caught selling to a youth they're fired. This results in a low-wage worker with a monetary penalty and no job, so it's never advocated for putting the penalty directly on a clerk. She believes it's the owner's responsibility as mistakes happen and is why there's no penalty or license suspension for the first violation. She feels this is now a decision about politics; a penalty could be put on the person selling the way the ordinance is drafted right now, or a clear penalty section could be inserted. She explained because of the way the statutes are written, it doesn't fall necessarily back to Section 1-13 which is a misdemeanor crime. She doesn't believe it's the intent of public health law to make it a misdemeanor, but rather keep retailers from selling to kids. She feels there's is no bigger stick than suspension of the license, which is what gets retailers to comply. She explained even charging up to \$500 based on the class of City, a retailer can make that up really fast in illegal sales, but they can't make it up if they can't sell. Having a clear penalty is what is advocated for in model policy. It's not about discretion, but about knowing what the penalty is so people can comply with the law. She doesn't advocate for separating this ordinance out, but for putting in a clear penalty section so the City's not generically putting a penalty on the person who's selling, but on the license holder. She addressed City Attorney Chris Lebeck's concerns regarding the burden being put on City Staff and resources when identifying if state or local laws have been broken. She explained the FDA has a very clear and easy to use database to identify any retailers within the City of Branson in violation. Ms. Chadwick stated there's a researcher at the University of Missouri who would be happy to manually pull data for the City or show City Staff how to pull the data as it's a national, open-access database. She feels the burden would be to apply the penalty on a license for any violation. She explained the burden of proof for a misdemeanor is higher, so if made a civil penalty with a clear penalty structure it's easier to clearly charge the store owner with the penalty. She understands Branson is a tourist community, but asked the Board to consider how close the access is for the kids.

Alderman Skains left the meeting at 7:37 p.m. and returned at 7:39 p.m.

Mayor Akers asked for comments from the Board. Discussion. Alderman McConnell moved to postpone Substitute Bill No. 5793 to the next Board of Aldermen meeting and incorporate all of Ms. Chadwick's changes into the law, seconded by Alderman Castillon. Mayor Akers called for a vote on the postponement. Voting aye: McConnell, Clonts, Simmons, Skains, Milton and Castillon. Nays: none. Motion carried. Discussion.

**RESOLUTION
DEFEATED**

Authorizing Staff to submit an invitation to bid for a Marketing Research Firm to provide direction to the City in regards to expanding our Marketing Funds.

A Resolution authorizing Staff to submit an invitation to bid for a Marketing Research Firm to provide direction to the City in regards to expanding our Marketing Funds was read by title by Deputy City Clerk Hillary Briand and a staff report was presented by Assistant City Administrator John Manning. Mayor Akers asked for a motion adopting the resolution. Hearing none, the Resolution failed due to a lack of a motion and second.

**RESOLUTION NO.
2020-R005**

Authorizing the Branson Police Department to apply for Missouri Department of Transportation Grant Funding to fund D.W.I. Traffic Enforcement within the City of Branson.

A Resolution authorizing the Branson Police Department to apply for Missouri Department of Transportation Grant Funding to fund D.W.I. Traffic Enforcement within the City of Branson was read by title by Deputy City Clerk Hillary Briand and a staff report was provided by Police Chief Jeff Matthews. Mayor Akers asked for a motion adopting the resolution. Alderman Skains moved to adopt, seconded by Alderman Clonts. Mayor Akers asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Akers asked for comments from the Board. Discussion. Mayor Akers called for a vote on the resolution. Voting aye: McConnell, Clonts, Simmons, Skains, Milton and Castillon. Nays: none. Motion carried. Resolution No. 2020-R005 was adopted.

**RESOLUTION NO.
2020-R006**

Authorizing the Branson Police Department to apply for Missouri Department of Transportation Grant Funding for Hazardous Moving Enforcement and Equipment within the City of Branson.

A Resolution authorizing the Branson Police Department to apply for Missouri Department of Transportation Grant Funding for Hazardous Moving Enforcement and Equipment within the City of Branson was read by title by Deputy City Clerk Hillary Briand and a staff report was provided by Police Chief Jeff Matthews. Mayor Akers asked for a motion adopting the resolution. Alderman Simmons moved to adopt, seconded by Alderman Milton. Mayor Akers asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Akers asked for comments from the Board. Discussion. Mayor Akers called for a vote on the resolution. Voting aye: McConnell, Clonts, Simmons, Skains, Milton and Castillon. Nays: none. Motion carried. Resolution No. 2020-R006 was adopted.

**RESOLUTION NO.
2020-R007**

Authorizing the Branson Police Department to apply for Missouri Department of Transportation Grant Funding for Youth Alcohol Enforcement within the City of Branson.

A Resolution authorizing the Branson Police Department to apply for Missouri Department of Transportation Grant Funding for Youth Alcohol Enforcement within the City of Branson was read by title by Deputy City Clerk Hillary Briand and a staff report was provided by Police Chief Jeff Matthews. Mayor Akers asked for a motion adopting the resolution. Alderman McConnell moved to adopt, seconded by Alderman Clonts. Mayor Akers asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Akers asked for comments from the Board. Discussion. Mayor Akers called for a vote on the resolution. Voting aye: McConnell, Clonts, Simmons, Skains, Milton and Castillon. Nays: none. Motion carried. Resolution No. 2020-R007 was adopted.

BILL NO. 5794

Approving the Intergovernmental Cooperative Agreement with the City of Merriam Woods, Missouri Police Department pertaining to the donation of Taser X26 Equipment and authorizing the Mayor to execute the contract.

First Reading of Bill No. 5794, an ordinance approving the Intergovernmental Cooperative Agreement with the City of Merriam Woods, Missouri Police Department pertaining to the donation of Taser X26 Equipment and authorizing the Mayor to execute the contract was read by title by Deputy City Clerk Hillary Briand and a staff report was presented by Police Chief Jeff Matthews. Mayor Akers asked for a motion approving Bill No. 5794. Alderman Milton so moved, seconded by Alderman Clonts. Mayor Akers asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Akers asked

for comments from the Board. No discussion. Voting aye: McConnell, Clonts, Simmons, Milton, Skains and Castillon. Nays: none. Motion carried.

BILL NO. 5795
POSTPONED

Approving the Franchise Agreement with the Empire District Electric Company and authorizing the Mayor to execute the contract.

First Reading of Bill No. 5795, an ordinance approving the Franchise Agreement with the Empire District Electric Company and authorizing the Mayor to execute the contract was read by title by Deputy City Clerk Hillary Briand and a staff report was presented by Assistant City Administrator John Manning. Mayor Akers asked for a motion approving Bill No. 5795. Alderman Skains so moved, seconded by Alderman Clonts. Mayor Akers asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Akers asked for comments from the Board. Discussion. Alderman Milton moved to postpone Bill No. 5795 to March 24, 2020, seconded by Alderman Castillon. Mayor Akers asked for comments from the Board. No discussion. Mayor Akers asked for a vote on the postponement. Voting aye: McConnell, Clonts, Simmons, Milton, Skains and Castillon. Nays: none. Motion carried.

BILL NO. 5796

Amending Chapter 58 Section 65 of the Branson Municipal Code pertaining to the ordinance violation of harassment.

First Reading of Bill No. 5796, an ordinance amending Chapter 58 Section 65 of the Branson Municipal Code pertaining to the ordinance violation of harassment was read by title by Deputy City Clerk Hillary Briand and a staff report was presented by City Attorney Chris Lebeck. Mayor Akers asked for a motion approving Bill No. 5796. Alderman Skains so moved, seconded by Alderman McConnell. Mayor Akers asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Akers asked for comments from the Board. Discussion. Voting aye: McConnell, Clonts, Simmons, Skains, Milton and Castillon. Nays: none. Motion carried.

BILL NO. 5797

Amending Chapter 86 Sections 621 thru 623 of the Branson Municipal Code pertaining to the naming of W 76 Country Blvd.

First Reading of Bill No. 5797, an ordinance amending Chapter 86 Sections 621 thru 623 of the Branson Municipal Code pertaining to the naming of W 76 Country Blvd was read by title by Deputy City Clerk Hillary Briand and a staff report was presented by City Attorney Chris Lebeck. Mayor Akers asked for a motion approving Bill No. 5797. Alderman Skains so moved, seconded by Alderman McConnell. Mayor Akers asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Akers asked for comments from the Board. Discussion. Voting aye: McConnell, Clonts, Simmons, Skains, Milton and Castillon. Nays: none. Motion carried.

BILL NO. 5798

Approving a Reimbursement Agreement with Morris Hospitality, LLC. pertaining to the installation of a 24 Inch Sewer Main Improvement.

First Reading of Bill No. 5798, an ordinance approving a Reimbursement Agreement with Morris Hospitality, LLC. pertaining to the installation of a 24 Inch Sewer Main Improvement and authorizing the Mayor to execute the contract was read by title by Deputy City Clerk Hillary Briand and a staff report was presented by Utilities Director Mike Ray. Mayor Akers asked for a motion approving Bill No. 5798. Alderman Skains so moved, seconded by Alderman McConnell. Mayor Akers asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Akers asked for comments from the Board.

Discussion. Voting aye: McConnell, Clonts, Simmons, Skains, Milton and Castillon. Nays: none. Motion carried.

BILL NO. 5799

Accepting the proposal of D.H. Pace Company, Inc. D/B/A Overhead Door Company of Springfield pertaining to overhead door maintenance services for the City of Branson Facilities.

First Reading of Bill No. 5799, an ordinance accepting the proposal of D.H. Pace Company, Inc. D/B/A Overhead Door Company of Springfield pertaining to overhead door maintenance services for the City of Branson Facilities and authorizing the Mayor to execute the contract was read by title by Deputy City Clerk Hillary Briand and a staff report was presented by Public Works Director and City Engineer Keith Francis. Mayor Akers asked for a motion approving Bill No. 5799. Alderman Milton so moved, seconded by Alderman Castillon. Mayor Akers asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Akers asked for comments from the Board. No discussion. Voting aye: McConnell, Clonts, Simmons, Skains, Milton and Castillon. Nays: none. Motion carried.

BILL NO. 5800

Approving the renewal of the contract with Kimberling City Tire Company, Inc. pertaining to tires, tubes and services and authorizing the Mayor to execute the contract.

First Reading of Bill No. 5800, an ordinance approving the renewal of the contract with Kimberling City Tire Company, Inc. pertaining to tires, tubes and services and authorizing the Mayor to execute the contract was read by title by Deputy City Clerk Hillary Briand and a staff report was presented by Public Works Director and City Engineer Keith Francis. Mayor Akers asked for a motion approving Bill No. 5800. Alderman Skains so moved, seconded by Alderman Milton. Mayor Akers asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Akers asked for comments from the Board. No discussion. Voting aye: McConnell, Clonts, Simmons, Skains, Milton and Castillon. Nays: none. Motion carried.

BILL NO. 5801

Approving the amendment to the 2020 life and AD&D Insurance Premiums from Anthem Life Insurance Company and allowing Elected Officials to sign up for basic life insurance for the City of Branson.

First Reading of Bill No. 5801, an ordinance approving the amendment to the 2020 life and AD&D Insurance Premiums from Anthem Life Insurance Company and allowing Elected Officials to sign up for basic life insurance for the City of Branson and authorizing the Mayor to execute the contract was read by title by Deputy City Clerk Hillary Briand.

Mayor Akers left the meeting at 8:27 p.m. He disclosed his conflict of interest due to his son being involved in this transaction. Acting President Simmons presided over the meeting.

A staff report was presented by Human Resources Director Jan Fischer. Acting President Simmons asked for a motion approving Bill No. 5801. Alderman Clonts so moved, seconded by Alderman Milton. Mayor Akers asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Akers asked for comments from the Board. No discussion. Voting aye: McConnell, Clonts, Simmons, Skains, Milton and Castillon. Nays: none. Absent: Akers. Motion carried.

Mayor Akers returned to the meeting at 8:29 p.m.

BILL NO. 5802

Approving the First Amended Contract with Sentinel Emergency Solutions pertaining to the purchase of self-contained breathing apparatus.

First Reading of Bill No. 5802, an ordinance approving the First Amended Contract with Sentinel Emergency Solutions pertaining to the purchase of self-contained breathing apparatus and authorizing the Mayor to execute the contract was read by title by Deputy City Clerk Hillary Briand and a staff report was presented by Fire Chief Ted Martin. Mayor Akers asked for a motion approving Bill No. 5802. Alderman Castillon so moved, seconded by Alderman Clonts. Mayor Akers asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Akers asked for comments from the Board. No discussion. Voting aye: McConnell, Clonts, Simmons, Skains, Milton and Castillon. Nays: none. Motion carried.

APPOINTMENTS

Mayor Akers explained the appointment process is in accordance with the Board and Committee Appointments Procedure. Appointment to the Human Resources Committee will be voted on by ballot. The applicant receiving the most votes by the Board will be approved as the appointment to the Human Resources Committee with a term expiring April 2020. The applicants are as follows:

Category 3:

Human Resources Committee:

- Jamie Patrick
- Donna Booth
- Kenn Tilus
- David Wood

Mayor Akers asked for a motion to vote by ballot on the following applicants for the Human Resources Committee. Alderman Skains so moved, seconded by Alderman Milton. Mayor Akers asked for comments from the Board. No discussion. Mayor Akers called for a vote on the appointments. Deputy City Clerk Hillary Briand read the results of the vote: Kevin McConnell voted for David Wood, Brian Clonts voted for Kenn Tilus, Bob Simmons voted for Jamie Patrick, Bill Skains voted for Kenn Tilus, Larry Milton voted for David Wood, Rick Castillon voted for Jamie Patrick and Edd Akers voted for Kenn Tilus. The result of the vote is Ken Tilus – 3 votes, Jamie Patrick – 2 votes, David Wood – 2 votes. Kenn Tilus will serve on the Human Resources Committee for the City of Branson.

DISBURSEMENTS

Mayor Akers stated the next item is the review of disbursements [(January 24, 2020 through February 20, 2020) See Master File for copies of disbursements] Mayor Akers asked if there were any questions regarding the disbursements. Discussion. Mayor Akers asked for a motion to acknowledge the receipt of disbursements from January 24, 2020 through February 20, 2020. Alderman Skains so moved, seconded by Alderman Clonts. Mayor Akers asked for any comments. No discussion. Voting aye: McConnell, Clonts, Simmons, Skains and Castillon. Nays: None. Abstain: Milton: Motion carried. Mayor Akers stated an abstention requires a reason to abstain, so I'm going to enact my guideline that the abstention be changed to a no vote from Alderman Milton. Discussion.

MAYOR/ALDERMEN/ADMINISTRATOR'S REPORTS

Alderman McConnell voiced his concerns about process and consistency regarding the Mayor changing abstentions to no votes. When he has asked questions, the City Attorney with witnesses in the room, acknowledged it's sort of uncharted waters for the Mayor to change people's votes like this. He also said it was not his advisement to the Mayor that he use changing abstentions to no votes. Alderman McConnell expressed his concerns over this since the Board was elected to represent voters and residents. He believes there's a yes vote, a no vote and abstention which he'll use when he wants, when he thinks is right and when people who have elected him want him to. He said he'll continue to do that and addressed the Mayor's decorum regarding public speakers and mentioned researching several Mayors back and couldn't find a Mayor who changed the decorum of public speakers. He provided the example that if the Board has 10 public speakers, no one on the Board can ask a question until all 10 speakers are through. No one's done that, so he consulted outside counsel on the legality of this and was told it is, but has never been done and no one does it. He feels it doesn't make sense and it's not uniformly applied which he feels everyone on the Board would agree. He pointed out an example this evening when Alderman Skains went to address a speaker during a time the Board was not allowed to, but the Mayor recognized him anyway. Alderman McConnell said this is not how the process is supposed to work and asked where the questions from residents and media are. He told Mayor Akers he doesn't get to change the rules for different Board members and suggested being consistent with decorum and how it's applied.

Alderman Simmons said along the same subject, he thinks what brought all this up was a speaker at the beginning of the meeting. He explained those comments lasted about 45 minutes and another speaker lasted 30 minutes, a significant part of the Board meeting. These items were not on the agenda and the public didn't receive notice they would be discussed in great detail. He believes the rule has been to allow five minutes to speak with an additional five minutes for questions, 10 minutes total for a particular person. Anything over that is detail enough to come back in a Study Session or some other way to be addressed, rather than in an open section in which a speaker brings up something no one is prepared for. He said he doesn't know the legalities of that, but it's just his suggestion to the Board.

Alderman Milton commented there was a media release from the Tourism Community Enhancement District (TCED) that came in today addressing the issue that's been delayed for months. He mentioned it's been eight months since Bill No. 5599 was approved and recalled an old saying that if people don't like a bill that's passed, don't fund it. It was reported the City hasn't been able to find funding for it for eight months and he knows Alderman Skains and Mayor Akers were against the Bill. Not only did they vote against it, but they publicly ridiculed it saying it was a mistake. He doesn't know what the holdup is and would like to get some movement on that. Alderman Milton feels it's going to turn into a self-fulfilling prophecy for some members of the Board as it can be extended for a year and then they can say it wasn't going to do any good. He complimented the TCED for coming out with this and he'd like the Board to hear these words and decide if it's something they'd want to do as a City. He read from the TCED's release and stated the Tourism District will establish a new Marketing Oversight Committee that will be responsible for its destination strategic short and long-term marketing objectives and report directly to the Tourism District's Board of Directors. Similar groups, District Marketing Council and Marketing Advisory Council have previously been managed by the Branson Lakes/Area CVB; the destination marketing organization contracted by the Tourism District to provide the marketing. The Tourism District's newly formed Marketing Oversight Committee will assume complete responsibility for all destination-related research, including the annual advertising effectiveness study. This responsibility includes efforts to involve and inform District stakeholders of the objectives, assumptions, value and limitations of all research results in both timely and fully transparent ways. Destination research has previously been managed and administered by the Branson Lakes/Area CVB, the destination marketing organization contracted by the District. Alderman Milton commented the new contract is effective April 1st which is the part he wants to address and he feels the TCED is seeing the importance of getting its own advice, not directly from the CVB. This Board only receives information from the CVB and he feels it should get its own input just like TCED is doing and he would like to move forward on that. He recalled when this was brought up in June, Alderman Skains said it would be a huge mistake to get out of the annual cycle between the TCED's and City's contracts with the CVB for the annual auditing and that was very valid. He reiterated, their contract is effective April 1st and if the City wants to stay in the same auditing cycle. He thinks the City needs to move on this and he'd like to

Board of Aldermen

Regular Meeting 3-10-20

Page 12 of 17

see the City start moving towards a contract. Bill No. 5599 didn't say the City was going to extend it for a year; but up to a year. He added, nothing says the City's going to wait until the end of this year to be able to start negotiating and the sooner the negotiating starts, the closer those annual audit dates are going to be.

Alderman Castillon mentioned two Aldermen are running for re-election and two people in the audience running for election. He explained the City's not taking signs down, but the Missouri Department of Transportation (MoDOT) has been taking some signs down on its property and he encouraged people to visit the Taney County website to find out what property belongs to them. He explained MoDOT owns a lot of property on Highway 248 and also at the corner of Highway 76 and 65.

Mayor Akers mentioned meeting with the TCED which has agreed to share with the City its contractual arrangements with the CVB. He feels this will be helpful when fashioning the City's and how it ties together tourism dollars and those from the TCED. He mentioned attending a ticket reseller hearing in Jefferson City which he felt was very interesting. He explained it pertained to the issue of people being able to buy tickets, resell them and not pay taxes which is a big issue for both the City and State with regards to the amount of funds that should be received from that. He reminded everyone it's election time and he encouraged voters to be informed and vigilant in their study of who to vote for. Mayor Akers commented he will try to get clarification on information since there's been a lot of accusations and information thrown about and he'd like to get to the truth. He feels it's easy to throw out information without validation, so he'll get validation and seek to correct any issues.

EXECUTIVE SESSION

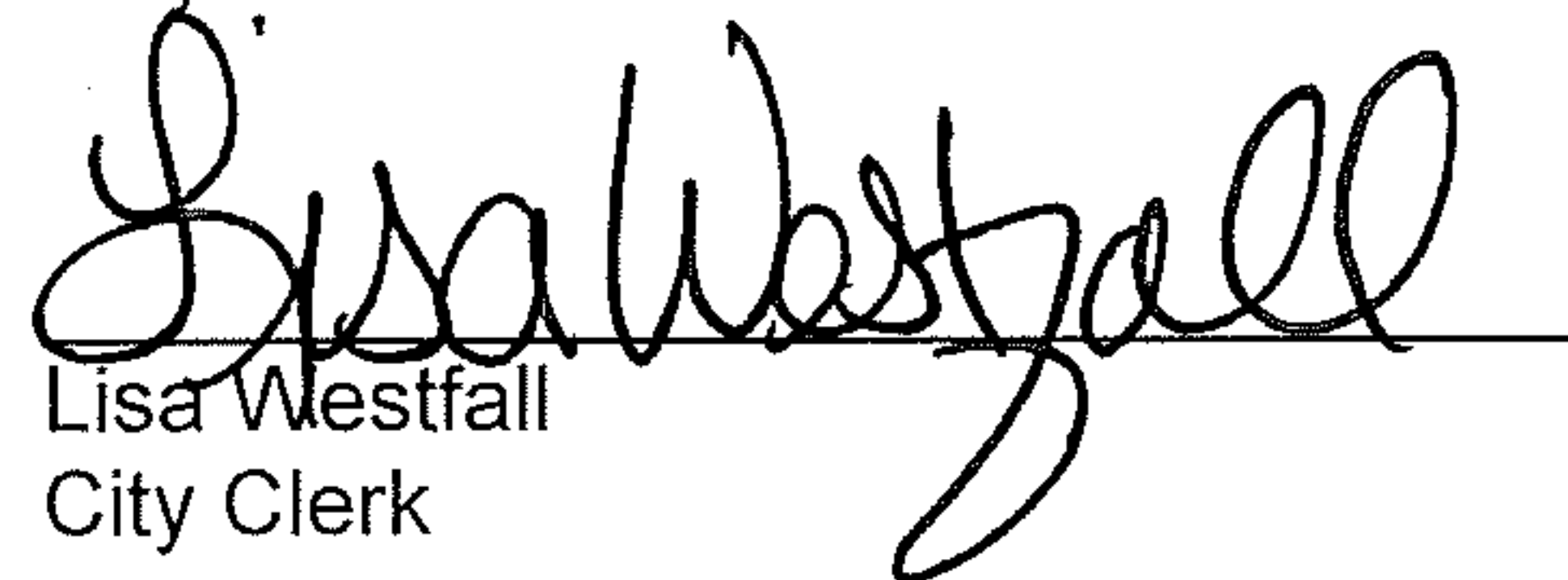
Mayor Akers asked for a motion to go into closed executive session. Alderman Simmons moved to go into closed executive session pursuant to 610.021.2 RSMo for real estate, seconded by Alderman Milton. Voting aye: McConnell, Clonts, Simmons, Skains, Milton and Castillon. Nays: none. Motion carried.

ADJOURN

Mayor Akers asked for a motion to adjourn. Alderman Castillon moved to adjourn, seconded by Alderman Milton. Voting aye: McConnell, Clonts, Simmons, Skains, Milton and Castillon. Nays: none. Motion carried. Meeting adjourned at 8:55 p.m.



E. Edd Akers
Mayor



Lisa Westfall
City Clerk

SUBSTITUTE BILL NO. 5793 ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 58 OF THE BRANSON MUNICIPAL CODE PERTAINING TO PROHIBITING THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER 21 YEARS OF AGE.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, THE FOLLOWING:

Section 1: It is the intention of the Board, and it is hereby ordained, that the provisions of this ordinance shall become and be made a part of the Branson Municipal Code, and the sections of this ordinance may be renumbered to accomplish such intention.

Section 2: That Chapter 58, Article VIII - *Other Nuisances*; Division 2 - *Smoke-Free*; Section 58-331 - *Definitions*; Section 58-343 - *Distribution or Sale of Tobacco Products, Alternative Nicotine Products or Vapor Products to Minors Prohibited*; Section 58-344 - *Proof of Age Required for Purchase*; Section 58-345 - *Sign required for sale or tobacco products, alternative nicotine products, and vapor products*; Section 58-346 - *License required*; Appendix A - *Feeschedule* of the Branson Municipal Code is hereby amended to read as follows:

ARTICLE VIII. - OTHER NUISANCES
DIVISION 2. - SMOKE-FREE

Sec. 58-331 - Definitions.

Proof of age means a driver's license or other documentary or written evidence government-issued photographic identification that states the individual is 21 years of age or older.

~~Sec. 58-342. - Minors prohibited from purchase or possession of tobacco products, alternative nicotine products or vapor products - Penalties.~~

~~(a) - No person less than 18 years of age shall purchase, attempt to purchase or possess tobacco products, alternative nicotine products or vapor products unless such person is an employee of a seller of cigarettes, tobacco products, alternative nicotine products or vapor products and is in such possession to effect a sale in the course of employment or an employee of the Division of Alcohol and Tobacco Control for enforcement purposes pursuant to subsection (5) of RSMo 407.934.~~

~~(b) - Any person less than 18 years of age shall not misrepresent his age to purchase cigarettes, tobacco products, and alternative nicotine products or vapor products.~~

~~(c) - Any person who violates the provisions of this section shall be penalized as follows:~~

~~(1) - For the first violation, in addition to the penalties set forth in section 1-13, the person shall have any cigarettes, tobacco products, alternative nicotine products or vapor products confiscated.~~

~~(2) - For a second violation and any subsequent violations, in addition to the penalties set forth in section 1-13, the person shall have any cigarettes, tobacco products, alternative nicotine products or vapor products confiscated and shall complete a tobacco education or smoking cessation program, if available.~~

Sec. 58-343. - Distribution or Sale of Tobacco Products, Alternative Nicotine Products or Vapor Products to Persons under 21 Years of Age Prohibited.

35
36 It shall be unlawful for any person to sell, provide or distribute by any means tobacco products,
37 alternative nicotine products or vapor products to persons under [-1-8] 21 years of age.

38
39 Sec. 58-344. - Proof of Age Required for Purchase.

40
41 A person selling or distributing tobacco products, alternative tobacco products, or vapor
42 products shall require proof of age from any prospective purchaser or recipient unless such person
has reasonable cause to believe that the prospective purchaser or recipient is 21 years of age
or older. No such verification is required for a person over the age of 30. That a purchaser appeared to
be 30 years of age or older shall not constitute a defense to a violation of this section.

43
44
45 Sec. 58-345. - Sign required for sale or tobacco products, alternative nicotine products, and vapor
46 products.

47
48 It shall be unlawful for any person to sell, provide or distribute by any means tobacco products,
49 alternative nicotine products or vapor products, unless the premises upon which such items are sold,
50 provided or distributed prominently displays a sign near the point of purchase no smaller than 11
inches tall by 14 inches wide which shall contain in red lettering at least one-half inch high on
white background:

53
54 "IT IS A VIOLATION OF THE LAW FOR TOBACCO PRODUCTS, ALTERNATIVE NICOTINE
55 PRODUCTS, OR VAPOR PRODUCTS TO BE SOLD TO ANY PERSON UNDER THE AGE OF
56 21."

57
58 Section 58-346. - License required.

- 59
60 (a) It shall be unlawful for any person to sell, provide or distribute by any means tobacco products,
61 alternative nicotine products or vapor products without first obtaining a license from the city to
62 sell, provide, or distribute tobacco products, alternative nicotine products or vapor products.
63
64 (b) A license shall be valid for one year or the remaining portion of the calendar year and expire on
65 June 30 of each year. A license must be renewed annually and shall be required for each
66 location at which tobacco products, alternative nicotine product or vapor products are sold,
67 distributed or provided and shall be in addition to any other permit or license required by
68 other local, state or federal governmental entities. An application fee in the amount provided in
69 the city fee schedule shall accompany each application for an original license issued under this
70 Section. The application fee is to cover the various costs incurred by the city in investigating
71 and processing the applications. The application fee is not refundable.
72
73 (c) Licenses shall be subject to denial, nonrenewal and revocation pursuant to the procedure
74 described for licenses in Article II of Chapter 22. Licenses may be denied, not renewed, or
75 revoked for failure to comply with the requirements of this article or any other applicable
76 section of this Code. A permit shall not be issued when the city has reason to believe the
77 issuance of the permit will result in the operation of a business in violation of this Code.
78
79 (d) If three or more violations of any provision of this article, or of any state or federal tobacco
80 law occur at a licensed location, within a thirty-six month period or are
81 committed by a license holder, any employee or agent of a license holder, or any combination
82 thereof, the permit shall be subject to revocation or nonrenewal as set forth in this Article.

Sec. 58-347. – Penalties

(a) Any license holder or agent of that license holder that violates any provision of Section 58.343 to 58.345, the permit holder shall be subject to:

(1) A fine of \$250.00 for the first violation within a thirty-six month period;

(2) A fine of \$500.00 for the second violation and any additional violation within a thirty-six month period.

(b) In addition to any monetary penalty, the permit holder shall be subject to the suspension of the license for 7 days upon the second and any subsequent violations in a thirty-six month period.

Appendix A - FEE SCHEDULE

Code Section	Description	Fee
Chapter 58-Offenses and Nuisances		
58-346	Original license application	<u>25.00</u>
	Annual Renewal	<u>25.00</u>

84

85

86 NOTE: LANGUAGE WHICH IS BOLD, UNDERLINED HAS BEEN ADDED; LANGUAGE WHICH
87 IS [BRACKETED, STRICKEN] HAS BEEN REMOVED.

88

89 Section 3: This ordinance shall be in full force and effect after its passage by the Board of Aldermen and
90 approval by the Mayor on June 30, 2020.

91

92 Read, this first time on this ____ day of _____, 2020.

93

94 Read, this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson,
95 Missouri on this ____ day of _____, 2020.

96

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01

02

E. Edd Akers
Mayor

03 ATTEST:

04

05

06

07 Lisa K Westfall

08 City Clerk

APPROVED AS TO FORM:

Chris Lebeck #51831
City Attorney